

## Remarks

### Election

Claims 1–9 and 17–20 have been elected for prosecution in this application. The non-elected claims 10–16 and 21 have been cancelled, with the intention that the cancellation is made without prejudice to their reintroduction into this or a successor application.

### Indefiniteness Rejection

Claims 1–9 stand rejected under 35 USC 112, second paragraph because of a confusion over whether the claimed label is mounted on the claimed barrier film or separate from it. The amendment to claim 1 clarifies that the label is mounted against the inner ply of the barrier film and a layer of adhesive on the second ply of the label bonds the label to the barrier film. Thus, the claimed label is required to be mounted on the barrier film and as such does not constitute a separate construction.

### Novelty Rejection

Claims 17–19 stand rejected as being anticipated by US Patent No. 5,330,777 to Mize, Jr., et al. Claims 17–19 have been cancelled.

### Obviousness Rejection

Claims 1–4, 8, 9, and 20 stand rejected as obvious over US Patent No. 5,330,777 to Mize, Jr., et al. in view of US Patent No. 5,676,401 to Witkowski et al. The Mize, Jr. et al patent is credited with disclosing a two-ply barrier film and a label bonded to the inner ply of the barrier film. The label can be made of a paper

substrate having an upper side that can be printed and subsequently coated with a heat sealable adhesive and a lower side that can be covered by a water proofing coating. Witkowski et al. contributes the idea of a label wrap having an interior surface that is divided into a central area that is printed with water-soluble tattoos and two end areas that are covered with glue for mounting the label wrap to a bottle or can.

Missing even from the combination is the consideration of a multi-ply label construction for use with a barrier film in which each ply has a defined purpose and a unique relationship with the other ply. According to claim 1, the first ply supports a layer of printing and the second ply supports a layer of adhesive. In Mize, Jr., et al. a layer of adhesive overlies a layer of printing on the same substrate. In Witkowski et al., one area of a substrate is dedicated to supporting printing and another area of the same substrate is dedicating to supporting glue.

Claim 1 also requires the first ply to be mounted on the second ply exposing an area of the adhesive on the second ply. No such relationship among label plies is found in either applied reference. Both the first ply and the second ply of the label are required to be positioned adjacent to the inner ply of the barrier film. No two plies are found in either reference nor is any suggestion found that both such plies should be positioned adjacent to a barrier film. The adhesive is required to bond the label to the barrier film without obstructing a view of the printing layer on the first ply of the label. The adhesive layer of Mize, Jr. et al. obstructs the viewing of an underlying printed layer. The substrate of Witkowski et al. blocks a view of the interior printed tattoos. It is the outside side surface of Witkowski et al.'s label that is intended for display.

Dependent claims 2–4 describe details of a barrier film common the to both the claimed invention and Mize, Jr. et al.

Dependent claim 8 requires the first ply that supports the printing layer to be opaque to provide contrast for the printing and the second ply that supports the adhesive layer to be at least translucent to provide a less obstructed view of an underlying product. Neither applied reference suggests a label with two plies or how the plies might be differentiated to support different functions. Dependent claim 9 requires the second ply to be made of a material that is safe for contact with food products and has been further amended to require the first ply to be made of a material that is not as safe for contact with food products, which allows for a wider variety of materials to be used as the first ply. Support for this amendment is found in paragraphs 14 and 24 of the specification.

Dependent claim 20 has been cancelled.

#### **Allowable Subject Matter**

Claims 5–7 are objected to as being dependent upon a rejected base claim but are deemed allowable if rewritten to include all of the limitations of their base claim and any intervening claims. Claim 5 has been rewritten in independent form including all of the limitations of independent claim 1 as amended to overcome the indefiniteness rejection. Claims 6 and 7 properly depend from rewritten independent claim 5.

With the cancellation of original independent claims 10, 17, and 21, no claim fees are believed due in connection with this amendment.

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Reconsideration and allowance of all remaining pending claims 1-9 are respectfully requested. For any questions on this amendment or the application, the Examiner is invited to contact applicant's representative at the telephone number given below.

Respectfully submitted,



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